



Intergovernmental Planning

Best Practices Paper #4: Growing Smarter Implementation Project

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1. INTRODUCTION

This paper is a component of the MAG Growing Smarter Implementation Project. A series of best practices paper topics have been identified through a process described below. These papers will assist member agencies in the following two ways. First, economies will be achieved by sharing some of the planning efforts that each community typically does in isolation. Second, innovative planning solutions, implemented by some member agencies, will be highlighted for potential use by others.

The topics for the best practice papers were selected by interviewing planning department staff from all member agencies as well as the State Land Department, Pinal County, Casa Grande and Apache Junction. During the interviews, planners were asked what they felt the most important planning issues are within and outside their jurisdictions. This information was then compiled into a survey, which was forwarded to members of the Planners Stakeholders Group, who prioritized their top issues. Some of the topics were later modified in response to specific requests and a vote by attendees of the March 1, 2002 Planners Stakeholders Group meeting. The final top six issues for best practices papers are as follows:

1. Affordable Housing Policy
2. Adequate Facilities Ordinance
3. Fiscal Impact Fees Comparison
4. Intergovernmental Planning
5. Infill Techniques
6. Planning for Transit Corridors

This paper represents the fourth in a series of six.¹ The purpose of this paper is to present local examples of intergovernmental planning that address the four main issues identified by interviewing planning staff of member agencies.

2. ISSUES

The reasons cited for selecting the topic of this paper are all related to problems caused by fragmented jurisdictional authority in taxing, fragmented public facility and service provision, and cumbersome development approval processes. Four specific issues emerged from the interview process. These four issues are briefly described below.

City/county planning differences -- Cities and counties have different tools available to them to regulate development. Counties are somewhat restricted in their ability to control lot splits and provide certain services. This causes problems more on the urban/rural fringe where what was once county land could become urbanized and annexed into a city or town.

The need to share both the cost and benefit of development on municipal borders – In some instances a community may suffer the impact of development

¹ The first three are complete and available upon request.

without experiencing the benefit of that type of development. For example, if a commercial development locates on the edge of a city or town then that city or town will benefit from increased tax revenues. The adjacent city or town however, may experience increased traffic, noise, lighting etc. without having the benefit of increasing their tax base. This may be more of an issue in Arizona where cities and towns are highly dependent on sales tax revenue for their municipal budgets.

Collaborative planning for schools – Cities and towns are not responsible for schools. This responsibility lies with school districts. School districts typically react to an immediate demand rather than working with cities and towns to determine potential future needs. This has been an issue for some communities.

Potential economies of scale in the development approval process – There are potential economies of scale that can be achieved through a multi-jurisdictional cooperation such as cooperating in the development review process that are not being taken advantage of enough.

The contiguous Metropolitan Phoenix urbanized area can be best described as a patchwork quilt of governance. It is comprised of 24 cities and towns, two counties, two tribal governments, over 55 school districts and a plethora of special purpose districts such as flood control districts, community facilities districts and water districts. This fragmentation of jurisdictional authority creates challenges for many people, land use planners in particular.

The solutions presented in this paper are not intended to represent an exhaustive list of the kinds of agreements that have improved planning between jurisdictions; rather, they represent examples that were selected from responses to a survey that was sent by e-mail to the Planners Stakeholders Group in fall of 2001. The ones chosen were considered to be of particular merit. It is the hope of the author that this paper will inspire others to share planning solutions and work with adjacent jurisdictions or counties (under our existing legislation) using solutions that they feel worked well.

Nationwide, there are several different models for inter-jurisdictional cost benefit sharing and conflict resolution. These range from voluntary co-operation (which is the norm and the least effective in solving regional problems) to state mandated planning goals replete with state regulatory authority (which substantially weakens local autonomy **(but is highly effective in solving regional problems?)**). In the words of Anthony Downs,

"Solving growth related problems requires somehow off-setting the ill-effects of the fragmentation of land use powers among U.S. metropolitan area governments. But that decentralization is deeply embedded in American institutional structures. In theory, the simplest way to adopt region wide government structures, so-called metropolitan government. But in practice, metropolitan government is rare...Unless Americans confront reality by creating institutions that operate at the same scale as their major problems, their problems will only get worse."

-Anthony Downs, *New Visions for Metropolitan America*, The Brookings Institution, 1994 pp.169 -182.¹

In 1998, the State of Maryland adopted state planning goals with an incentive system. State infrastructure is not provided outside of locally defined "growth areas". The Maryland "smart growth initiative" may hold the most promise as a model for regional problem solving as it maintains a high degree of local control.

Our state tax system causes cities and towns in the Metro Phoenix area to rely heavily on sales tax to fund municipal budgets. This is because residential uses (needed to provide shoppers and employees for commercial and other uses) by themselves create a deficit for local governments.² A 2001 MAG Growing Smarter Implementation Project report examined the fiscal impact of various land uses by local jurisdiction (See figure 1, on the following page.)

Figure 1

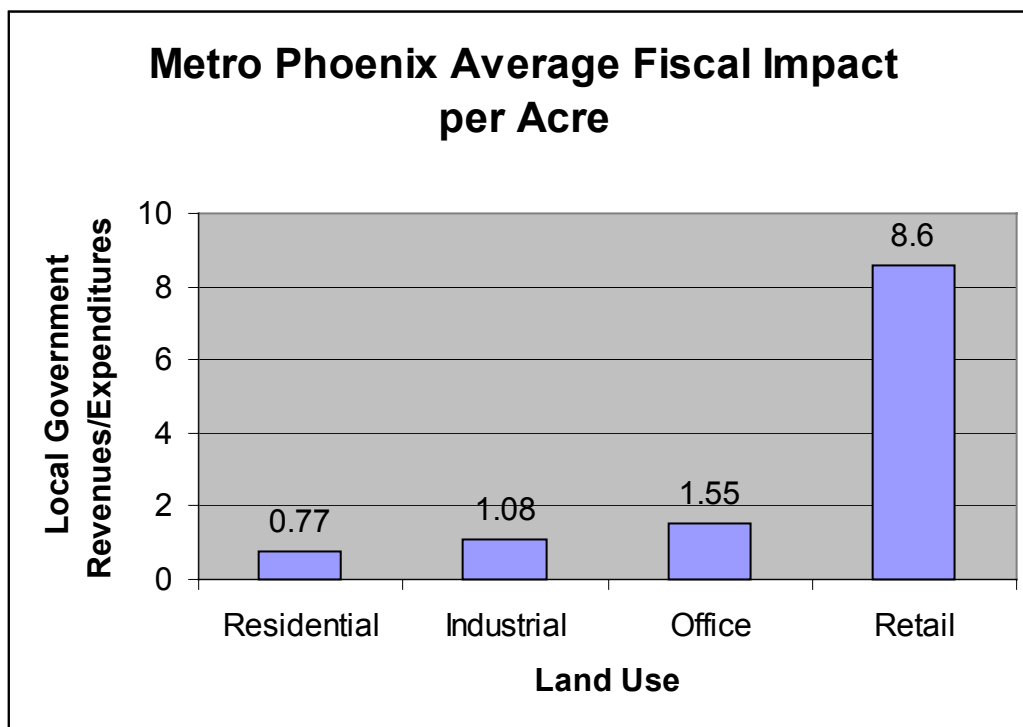


Figure 1, above, is the mean average impact of these for Metro Phoenix local governments for each type of land use. A ratio of 1 is the "break even" point. Residential development, with an average ratio of .77 generates a deficit unless there is a proportionate share of commercial uses to balance it.³ (The impact varies by local tax

² Applied Economics, Maricopa Association of Governments Growing Smarter Implementation. Sales Tax Base Final Report, October 2001

³ During the preliminary planning department interviews, several emerging communities stated that this imbalance was their most pressing planning issue. Recognizing the potential municipal fiscal crisis that

rate, intergovernmental revenues, property taxes, assessed valuations, disposable income, local government service standards, city size and a myriad of other factors. For data on the proportion of local jurisdictions budgets derived from different sources, see Appendix "E")

In emerging areas, growth generally starts with residential development and, as the requisite number of "rooftops" are in place, retail, office and other commercial uses are follow. Industrial and office development contributes to the local and regional economic base. Sales tax, on the other hand, plays an especially important role in municipal budgets, funding from 40% to 50% of the General Fund for some large cities. (See Table 1 below.)

Table 1.
SALES TAXES AS A PERCENT OF
LOCAL OPERATING REVENUE⁴

City/Town	Share	City/Town	Share
Tempe	55%	Tolleson	39%
Paradise Valley	54%	Glendale	39%
Goodyear	51%	Phoenix	37%
Surprise	50%	Gilbert	36%
Carefree	47%	Buckeye	35%
Litchfield Park	47%	Avondale	35%
Scottsdale	45%	Fountain Hills	33%
Cave Creek	44%	Guadalupe	31%
Chandler	41%	Peoria	31%
El Mirage	41%	Wickenburg	31%
Mesa	40%	Youngtown	26%
Gila Bend	39%	Queen Creek	20%

Sources: City Budgets, 1999-00, 2000-01; Applied Economics, 2001.

"Per capita sales are a good way to show the level of revenues that are available to each city from sales tax; however, not all sales taxes are generated by local residents. There is a significant crossover between cities in terms of shopping patterns. Tourism and construction also have an impact on local sales tax revenue."⁵

this could cause, the town of Goodyear has required developers to fund service costs during the early years. This was established by development agreement.

⁴ Applied Economics, Maricopa Association of Governments Growing Smarter Implementation. Sales Tax Base Final Report, October 2001

⁵ Applied Economics, Maricopa Association of Governments Growing Smarter Implementation: Task 6.4 - Fiscal Integrity, Internal Draft, May 15, 2001

Figure 2 below illustrates the variation between local cities in gross sales per capita.

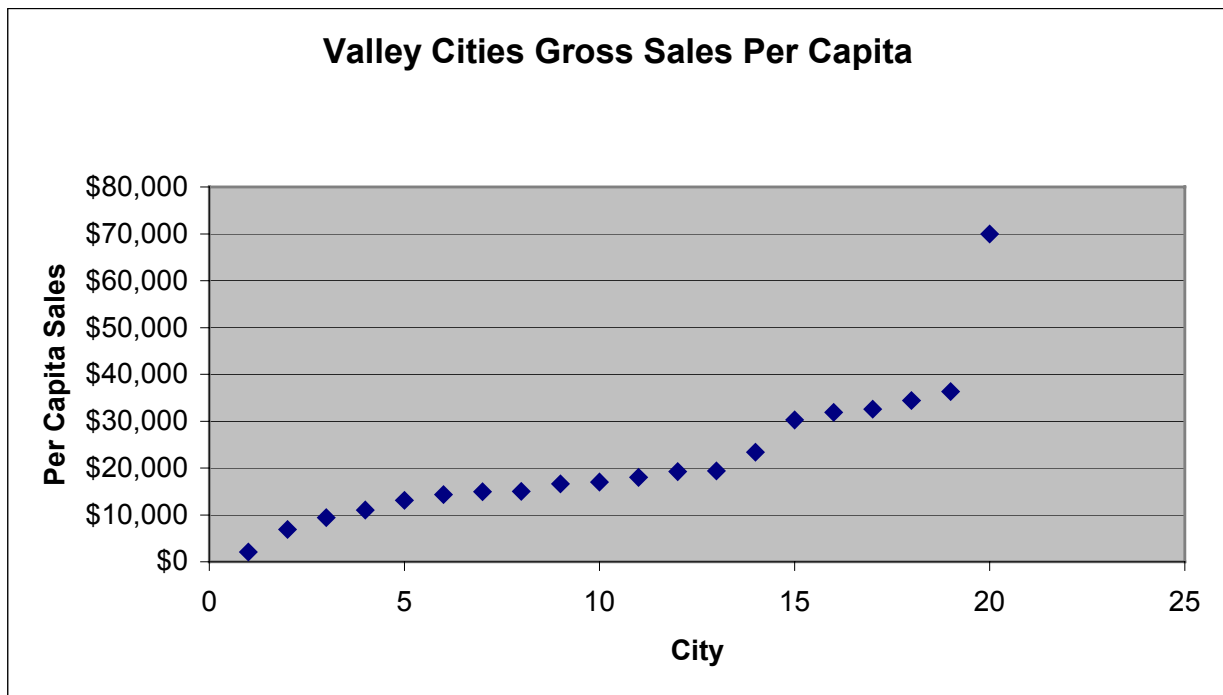


Figure 2

In Arizona, the combined effect of having many contiguous jurisdictions relying heavily on sales tax revenues to fund operating budgets has had a negative impact on some communities. A high tax generating regional mall locating in one community, capturing market potential generated by "rooftops" in a neighboring community is an example of this.

The mall generates high traffic volumes, resulting in the need for roadway improvement construction adding additional costs for both communities. The city that has the mall within its corporate boundaries receives a "windfall" of benefits while the neighboring community absorbs an unfair proportion of the costs.

3. INTERGOVERNMENTAL PLANNING SUCCESSES

3.1 City/County Infrastructure Planning

Arizona legislation makes it difficult to plan for infrastructure in an environment where there are multiple jurisdictions adjacent to or close by one another. This is especially true for linear facilities such as water, wastewater and streets. Since counties do not receive the same state-shared revenues to fund the array of services that cities and towns do, counties typically do not provide public infrastructure as cities do. This can lead to inefficiencies in service provision. However, our state statutes do provide for some extra-territorial jurisdictional planning. The statutes on extra-territorial jurisdiction (attached as Appendix "A") allow regulatory participation in the development approval

process of a neighboring jurisdiction only when there is a lack of contiguous planning in place.⁶

During the preliminary planning department interviews, several directors discussed problems related to county islands within their planning areas. Under Arizona Statutes, counties do not have the same subdivision authority as cities and towns. This results in substandard "wildcat" subdivisions in unincorporated areas of the county. A 1998 Pima County report cites the following issues related to these subdivisions⁷

- Poor road conditions
- Dust and respiratory problems
- Flooding problems
- Poor emergency response
- Limited utility access
- Low domestic water volume and water pressure
- Legal access to parcels often lacking
- Increased zoning violations

Several planning directors expressed the view that their cities have little interest in annexing some of these substandard areas because of the potential problems they bring. Avoidance of municipal development fees is another issue raised by some of the planning directors. Problems occur at the city/county fringe where developers will seek approval in the county, to avoid building to city subdivision standards or to avoid paying municipal development fees.

Maricopa County Planning Director Joy Rich, AICP reports that if Maricopa County receives a development application for an area of the County that is within a municipal planning area with an adopted general plan, the county will honor the municipal General Plan. In many areas of the County, there is no current general plan, making the County's review of development plans more difficult. It is anticipated that the Growing Smarter update process will correct most of these problems. (How?)

At least two local communities (the Town of Gilbert and the City of Mesa) have worked with Maricopa County to improve their ability to plan for new development. Both communities provide a "carrot" for developers to annex and seek approval in the City. Withholding municipal water and wastewater service from development that is approved in the County is a method of encouraging developers to seek approval within the City. Although local governments have long used water and wastewater service provision as an incentive for annexation, these two communities have worked with the County to develop

⁶ Although there is this authority in many states, Gilbert Planning Director, Gerry Swanson, AICP (who has worked with the more stringent extraterritorial controls) notes that it does not provide incentive toward conflict resolution, but only gives one jurisdiction the authority to stall development in another.

⁷ For a detailed report of the problems associated with "wildcat" subdivisions, a 1998 report, Impacts of Wildcat Lot Splitting in Unincorporated Arizona Counties, is available from the Pima County Planning Department. The report was prepared with support from the Arizona County Supervisors Association, The Arizona County Planning Directors Association and County Planning Officials throughout Arizona.

policies that were formally adopted. These are further described below. The County incorporates these policies into their development approval process.

The Town of Gilbert/Maricopa County Agreement

The Town of Gilbert and Maricopa County have informally agreed that the Town will not provide domestic or reclaimed water service to unincorporated new development in its planning area. (A letter of agreement was presented to the MAG Planners Stakeholders Group, and is attached as Appendix "B") The County agreed to require development to meet the Town of Gilbert's planning standards for new unincorporated development within the Town's planning area. This has been adopted as a part of the most recent Town of Gilbert General Plan. (See Appendix "C")

The Mesa Water and Wastewater Service Ordinance

The City of Mesa has taken a different approach by adopting an ordinance that requires un-subdivided parcels located outside of the City of Mesa corporate limits to be annexed before receiving City water and/or wastewater service. (The Mesa Ordinance is attached as Appendix "D")

3.2 Cost and/or Benefit Sharing Agreements

At least three inventive planning solutions have been developed in the valley to create equity between communities when commercial development is near borders in recognition the significant impact this can have on an area. ⁸

The North Valley Area Specific Plan

By the late 1980s, the pattern of urban growth had created the market potential for a regional mall in the Northwest Valley. Westcor purchased a 96-acre site in Glendale, adjacent to the Agua Fria Freeway and surrounded by several large, vacant parcels, to develop Arrowhead Mall. The mall site and surrounding area were ideally situated for a mixed-use activity center. The Cities of Glendale and Peoria recognized that a development of this scale would have a significant impact on both communities.

In a collaborative planning process, the two cities proceeded to develop a joint specific plan that was subsequently adopted by both the Glendale and Peoria City Councils. The plan was successful in maximizing the economic benefits to both jurisdictions while setting the stage for equity with respect to infrastructure costs and a providing a cohesive development pattern.

The plan allocates the scale, type and location of commercial, residential, neighborhood park, and buffer uses between cities according to the following table:

⁸ Other joint efforts, such as between Phoenix and Scottsdale in the development of the emerging northeast area have been discussed. It seems clear that the complexity of existing development and traffic patterns, flooding issues and a myriad of other physical, fiscal and political issues can make some the closure of IGA's more difficult than others.

Table 2
Development Allocation in North Valley Area Specific Plan

CITY OF GLENDALE	ACRES	SQUARE FOOTAGE	MAXIMUM DWELLING UNITS
Shopping Center	70.3	920,355	
General Commercial	73.2	960,169	
Limited Commercial	6.6		
Light Industrial	64.0		
Business Park	47.4		
Regional Center	95.9		
Multi-Family	80.2		
Single-Family	69.3		
General Office	16.3		
Limited Office	22.6		
Buffer-Open Space	3.0		
Neighborhood Park	21.0		
Total Glendale	569.8	5,465,152	2,259
CITY OF PEORIA			
Community Commercial	130.2	1,701,453	
Multi-Family	56.1		1,459
General Office	40.0	1,393,920	
Total Peoria	226.3	3,095,373	1,459
TOTAL SPECIFIC PLAN AREA	796.1	8,560,525	3,718

Traffic Volumes were projected for 2015 Average Daily Trips. A Transportation Management Association (TMA) was established for the planning area. This group oversees traffic studies that are to be conducted at different thresholds of development to ensure that the circulation plan, which includes an array of trip reduction measures, is working as planned. All property owners contribute to the implementation of the TMA program, with the allocation of improvements determined by the TMA. Traffic studies are contracted jointly by the cities and funded by the property owners.

Planner Gary Fulk, of Glendale reports that the urban design component of the plan has also proved to be a success. The plan specifies consistency in architectural theme, roadway and pathway design. Planners from each community have routinely appeared at development approval hearings to lend support to one another in the implementation of the agreement. The project is currently about 80% built out.

The Tempe/Chandler Revenue Sharing Agreement for Arizona Mills

By 1996, it was clear that the requisite number of rooftops for a new regional mall existed in the Tempe/Chandler area. This market potential resulted in fierce competition. Both Tempe and Chandler had potential sites and a developer to capture this potential. Clearly, the location of two regional malls within proximity to one another would hamper the economic viability of both.

Litigation between the developers ensued, with each attempting to stop the development of the competing mall. The litigation was resolved by means of an intergovernmental agreement that was signed by the mayors of Tempe and Chandler and the two developers. (Attached as Appendix "F"). The Arizona Mills mall was constructed in Tempe and revenues are shared with Chandler. Chandler, in turn agreed to share 10% of revenues from subsequently developed centers of over 400,000 square feet within the Chandler corporate limits.

The Tempe/Chandler agreement does not contain a sunset clause. Once the stipulated threshold of payments is met by each community revenue sharing continues in perpetuity. (What is the purpose of having a stipulated threshold of payments?) Although the 10% revenue sharing agreement can be adjusted upon mutual agreement by both cities, there is the potential for future conflict should a substantial shift in the balance of sales tax revenues occur.

The Queen Creek/Gilbert Revenue Sharing Agreement for the Seville Resort and Related Commercial Uses

The towns of Gilbert and Queen Creek recently entered into an agreement to share revenues from the Seville project, a 1,370-acre project centered on a resort and golf course. The agreement specifies that Gilbert will annex the land for the project and will pay 50% of the transaction privilege taxes to Queen Creek for 10 one-year periods. (Failed Desert Ridge did not make it in??)

3.3 Planning for Schools

In 1996, three west valley communities worked in accord with six school districts and six development community representatives to establish a compact to link the development approval and school planning processes. The landmark Southwest Cities, Schools and Developers Partnership Compact established a much-needed link between the development approval process and planning for schools. The 1996 agreement was signed by:

The mayors of the Cities of Litchfield Park, Goodyear and Avondale
The superintendents of the Agua Fria Union High School District, the Avondale Elementary School District, the Liberty School District, the Litchfield Park Elementary School District, the Tolleson Union High School District, and the Littleton Elementary School District
Representatives of the development companies Tierra Associates, The Roston Company, SunCor Development Company, Sunchase Estrella, Ken Skinner Realty and Pollack/Ramras

The following excerpt from the Southwest Cities/Schools/Developers Partnership Compact describes the issue.

"Local governments, school districts and developers traditionally have not jointly participated in general planning and the conceptual planning of master planned communities. Attention should be given in the planning process to encourage neighborhoods and subdivisions to provide lifestyles that develop a sense of community that unifies families and residents. Tax burdens must be examined for fairness and derived benefits to enable families and residents to enjoy a well-planned community that minimizes travel to work and maximizes schools as an asset for education, recreation and community activities."⁹

Fragmentation of jurisdictional authority sometimes creates problems in planning for schools to serve new development. When growth in an emerging area can involve several municipalities and several overlapping school districts, it can be difficult to ensure that schools are adequately sited and constructed to best serve new and existing development.

Under state statutes, a school district can reserve a site in a new development project for one year. If the district does not have the funds programmed to buy the site during that period, the school loses their reservation authority and the site reverts to the developer. It is often difficult for a school district to program funds in a 12-month time frame. This results in schools being sited later on remnant parcels in locations that are less than ideal.

⁹ Southwest Cities/Schools/Developers Partnership Compact, 1996

In rapidly developing areas, there is sometimes a lag between the arrival of new students and funding for the school district to serve them. This is because housing is often constructed and occupied before it appears on the tax rolls.

All of these factors can have a profound impact upon community character, as schools can serve as focal points in establishing both neighborhood and community identity. Once this opportunity is lost, it is not easily regained.

The agreement (attached as Appendix "G") outlines considerations that will be followed by cities, school districts and developers in the development process. The agreement is a voluntary set of guiding principals that are evaluated on a case-by-case basis.

Despite the fact that the compact does not set hard and fast rules, Goodyear Planner Kevin Kugler reports that it has been effective in integrating schools with community planning. As a direct result of the compact, the school districts have developed a set of service standards based on a facilities per student ratio. The cities have made a commitment to the joint use of facilities, co-locating parks with schools, reduced fees for schools, and providing increased densities to developers in exchange for school sites. The developers have agreed to better integrate schools and neighborhood parks with their planned developments.

Several school sites have been dedicated because of the planning that occurred since the compact was signed, including those by Sunchase in Esatrella Mountain Ranch, Suncor in Palm Valley, Continental Homes in Canyon Trails and the Roston Corp in Estrella Vista.

3.4 Economies of Scale in the Development Approval Process

In some rapidly growing jurisdictions, the number of development approval applications can be overwhelming to process.¹⁰ Given that many communities conduct the same kind of review, collaboration between communities can eliminate some redundancies. This benefits local governments, by reducing individual caseloads. It also benefits developers, who can have projects reviewed faster and with greater predictability. (explain why there is greater predictability) Seven valley communities have joined forces to develop a process that enables residential plan review by any one of the participating jurisdictions. Participating cities and towns within Maricopa County developed an intergovernmental agreement and procedure to share the plan review process. At this time, the participating jurisdictions are Avondale, Cave Creek, Gilbert, Glendale, Litchfield Park, Peoria, El Mirage and Surprise. (I count 8???) After several meetings and document exchanges a flow chart, task list and procedure were developed. (Attached as Appendix "H")

Generally, any applicant (usually a homebuilder) will submit standard sets of plans with suitable documentation to a jurisdiction of their choice. The program allows single-family home developers to submit their standard plans to any of the participating

¹⁰ Keeping up with a vast number of applications was cited as one of the top issues for newly developing communities in the preliminary planning department interviews for this project.

jurisdictions for their initial “host” review. Fees and processing times will vary but the applicant may determine a host submission location. Recognized and participating jurisdictions will have designated and trained plan reviewers that accept, review and distribute plans. The plan review fee is charged at this time. Upon acceptance, the applicant is then able to take the reviewed plans to a participating jurisdiction for a site-specific permit submission. The “home city” will have been copied with the host city review and accepted drawings.

The Town of Surprise Development Approval Planning Manager is hopeful that once established, the program will inspire the development of similar processes for other plan reviews, if applicable.

The host jurisdiction will then review and approve the plans on behalf of all jurisdictions including the permitting city participating in this program. Fees and tasks are summarized in the attached flow chart and task list. An intergovernmental agreement is also attached. These documents form the basis for the working relationship between participating municipalities.

Participating jurisdictions have adopted the same building codes that pertain to residential construction. The building codes to be used are the 2000 International Residential Code and the 2000 International Building Code.

The participating jurisdictions will use common plan review application forms, worksheets, and plan review checklists, inspection checklists and construction handouts.

The cost of any permit submission does not include the plan review fee, so there is little impact on the permit revenue of each city. The benefits of this program are as follows:

1. It provides substantial cost savings to the homebuilders. Plans are submitted and homebuilders are charged a one-time plan review fee. Currently, homebuilders must submit and pay for independent plan reviews from each jurisdiction.
2. It increases uniformity in residential building code applications and interpretations among plan review and inspection staff.
3. It increases the efficiency of all participating plan review departments by reducing backlogs, shortening the standard plan review process and reducing the need for outsourcing.

Currently this agreement only addresses plan review; however, shared inspection duties may form the basis of future agreements.

4. CONCLUSION

Arguably, there is no urban region that can be used to create a model for local collaborative planning in Metropolitan Phoenix. Our rapid growth and our unique patterns of development, jurisdictional authority, state planning law and taxing authority create a planning environment that is truly unique. The lack of directly applicable models creates (in the words of John Kross, Queen Creek Planning Director) a planning environment that is like a laboratory. This presents both opportunities and challenges.

The local examples cited in this paper represent new, innovative approaches that are being used to overcome planning problems that exist between one or more jurisdictions. It would be beneficial for planners to use what seems applicable, to watch the progress of these efforts over time, and to share other innovations with colleagues.

Appendix A

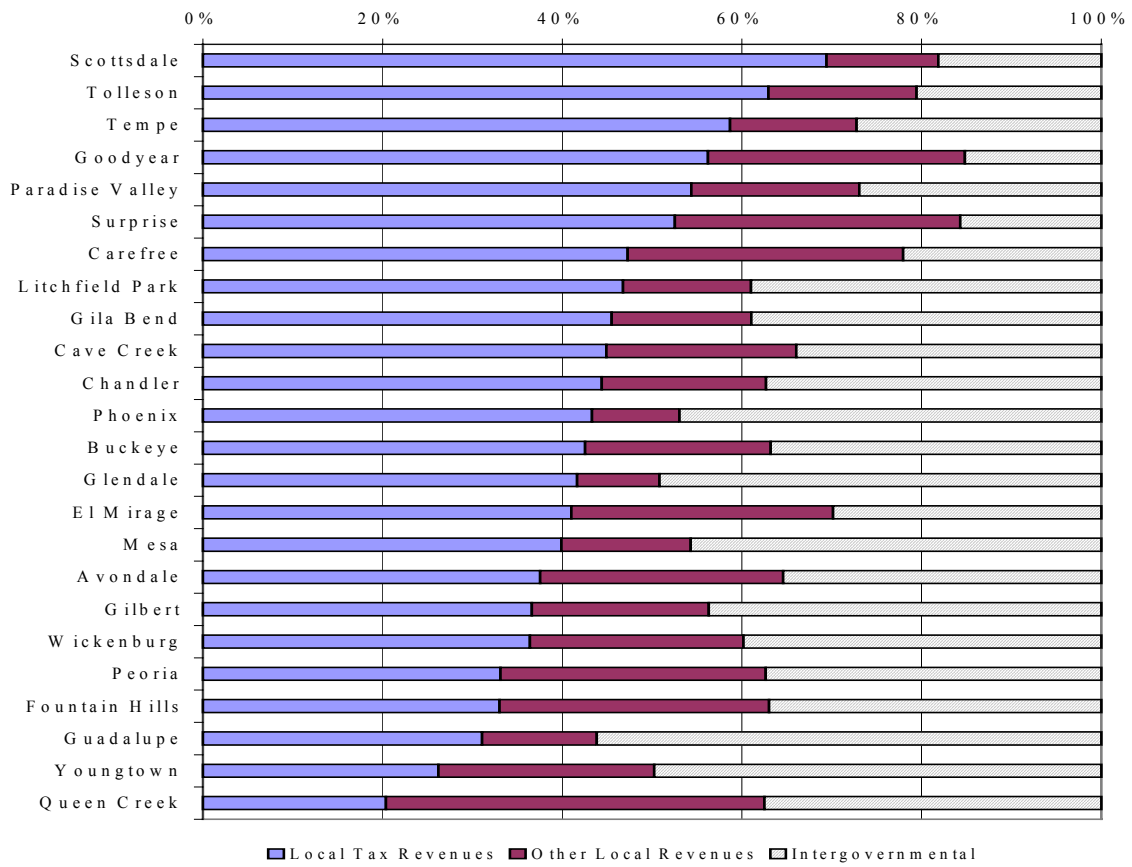
Arizona Revised Statutes

9-463.04. Extraterritorial jurisdiction

- A. In any county not having county subdivision regulations applicable to the unincorporated territory, the legislative body of any municipality may exercise the subdivision regulation powers granted in this article both to territory within its corporate limits and to that which extends a distance of three contiguous miles in all directions of its corporate limits and not located in a municipality. Any ordinance intended to have application beyond the corporate limits of the municipality shall expressly state the intention of such application. Such ordinance shall be adopted in accordance with the provisions set forth therein.
- B. The extraterritorial jurisdiction of two or more municipalities whose territorial boundaries are less than six miles apart terminates at boundary line equidistant from the respective corporate limits of such municipalities, or at such line as is agreed to by the legislative bodies of the respective municipalities.
- C. As a prerequisite to the exercise of extraterritorial jurisdiction, the membership of the planning agency charged with the preparation or administration of proposed subdivision regulations for the area of extraterritorial jurisdiction shall be increased to include two additional members to represent the unincorporated area. Any additional member shall be a resident of the three-mile area outside the corporate limits and be appointed by the legislative body of the county in which the unincorporated area is situated. Any such member shall have equal rights, privileges and duties with the other members of the planning agency in all matters pertaining to the plans and regulations of the unincorporated area in which they reside, both in preparation of the original plans and regulations and in consideration of any proposed amendments to such plans and regulations.
- D. Any municipal legislative body exercising the powers granted by this section may provide for the enforcement of its regulations for the area of extraterritorial jurisdiction in the same manner as the regulations for the area within the municipality are enforced.

Appendix E

Metro Phoenix Local Government Revenues by Source



Source: Applied Economics, 2001